



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/587,448	12/01/95	HO KEUNG	T

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AIR MAIL

EXAMINER

LAUFER, P

ART UNIT	PAPER NUMBER
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3642

#24

DATE MAILED: 02/27/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Amendment of 13 February 1998

1. Applicant's response to the Office action of 19 September 1997 was received in the Patent and Trademark Office on 13 February 1998, which is after the expiration of the period for response set in the above noted Office action. The application will become abandoned unless applicant obtains an extension of the period for response set in the above noted Office action.

An extension of the response period may be obtained by filing a petition under 37 CFR 1.136(a). The petition must be accompanied by the appropriate fee as set forth in 37 CFR 1.17. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for purposes of determining the period of extension and the corresponding amount of the fee due. The expiration of the time period is determined by the amount of the fee paid.

Applicant is advised that in no case can any extension carry the date for reply to an Office action beyond the maximum period of SIX MONTHS set by statute. Additionally, extensions may not be granted under 37 CFR 1.136(a) for more than FIVE MONTHS beyond the time period set in an Office

2. The amendment of 13 February 1998 has not be considered because of the following reason:

The amendment was not accompanied by a petition and fee for extension of time. The time for response ended on 19 January 1998. **The period can for response can be extended through 19 March 1998 by petition for extension of time accompanied by payment of a fee of \$475.00 US.**

3. In the Advisory Action (paper #22) mailed 28 January 1998, the following *incorrect* statements were provided:

Box "b" was checked under "THE PERIOD FOR RESPONSE"
and

"The response period ends three months from the date of the **Final rejection** or (if the 3 months have already lapsed) on the date of mailing of the Advisory action."

4. Box "a" should have been checked, and the correct statement should have been "The response period ends *four* months from the date of the **Final rejection** including the one month extension of time."

5. Currently, the period of response runs from the date of the final rejection and expires on 19 January 1998. In order to have any paper considered an Extensions of time must be "purchased" by petition and payment of the appropriate fee. This fee is determined by the date that the fee and the paper are both received by the office. Note that the case will go abandoned 6 months from the date of the Final rejection if no extension of time is purchased. Furthermore, the extension of time is necessary to achieve copendency if a continuation application is filed.

6. Although the examiner provided incorrect advice (by checking box "b" on the form and in the statement cited above in paragraph 2), he has no authority to waive the fee for extension of time.

Once a shortened statutory period is set, there is no discretion on the part of the office to extend the period without payment of the fees.

"After Final" Practice

7. The following paragraph details appropriate responses to final rejections. Note that the filing of a Notice of Appeal can be used to keep an application from going abandoned. This time can be used for preparing a request for a CPA (continuing prosecution application).

8. A final rejection is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to a final rejection is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of \$155.00

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

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Information Regarding Communication with the PTO


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pinchus M. Laufer whose telephone number is (703) 306-4160. The examiner can normally be reached on weekdays from 7:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. T. Tarcza, can be reached on (703) 306-4171. The fax phone number for this Group is (703) 306-4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-4177.

Pinchus M. Laufer
February 25, 1988

PL


THOMAS H. TARCZA
SUPERVISORY PATENT EXAMINER
GROUP 3640